

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 966**

**Introduced by Assembly Member Saldana**

February 18, 2005

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~~An act to add Article 2 (commencing with Section 105336) to, and to add a heading as Article 1 (commencing with Section 105325) to, Chapter 6 of Part 5 of Division 103 of, the Health and Safety Code, relating to public health. An act to add Article 14 (commencing with Section 25251) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 966, as amended, Saldana. Dental amalgam.

*(1) Existing law requires the Department of Toxic Substances Control to issue hazardous waste facilities permits for the treatment of hazardous waste. A violation of the hazardous waste control laws is a crime.*

*This bill would require the Department of Toxic Substances Control to establish and maintain a list of approved amalgam separators meeting certain standards, as specified. The bill would require all dental practices to install an approved amalgam separator and to implement the best management practices, as specified, to minimize the discharge of mercury into wastewater. The bill would define the enforcement agency as the local or regional agency with regulatory authority over wastewater discharges into the sanitary or combined sewer system for a jurisdiction. The bill would require all dental practices to submit documents showing the purchase and installation of an approved amalgam separator. The bill would require the enforcement agency to inspect at least 10% of dental practices within*

*its jurisdiction each year, thereby imposing a state-mandated local program by imposing new duties upon local agencies. The bill authorizes the enforcement agency to collect an unspecified amount as processing fee to cover the cost of implementation and enforcement.*

*Because a violation of the requirements imposed by the bill would be a crime under other, existing provisions of the hazardous waste control laws, this bill would impose a state-mandated local program by creating new crimes.*

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for specified reasons.*

~~Existing law establishes the State Department of Health Services and sets forth its duties and responsibilities, including, but not limited to, the protection of the environment from toxic chemicals and the protection of the public from unsafe medical devices.~~

~~This bill would require the department to adopt regulations establishing standards regulating the discharge of mercury and other byproducts related to the use of amalgam in the process of providing dental and related services, and related to supplying those who provide the services and would require that the best available technology be used to ensure that the highest possible percentage of mercury is removed from wastewater prior to discharge. The bill would preclude health insurance coverage or health care service plans entered into or amended on or after January 1, 2006, from denying insurance coverage for amalgam alternatives based upon the cosmetic aspects of the alternatives.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. ~~A heading is added as Article 1 (commencing~~
- 2     ~~with Section 105325) is added to Chapter 6 of Part 5 of Division~~
- 3     ~~103 of the Health and Safety Code, immediately preceding~~
- 4     ~~Section 105325, to read:~~

1     SECTION 1. Article 14 (commencing with Section 25251) is  
2     added to Chapter 6.5 of Division 20 of the Health and Safety  
3     Code, to read:

4  
5             Article 14. Management of Mercury Dental Amalgam

6  
7     25251. The Legislature finds and declares all of the  
8     following:

9         (a) Mercury is widely recognized as a toxic pollutant.

10        (b) Mercury, in various forms and at relatively low  
11        concentrations, can cause serious health problems, including  
12        damage to the central nervous system, kidneys, and liver.  
13        Nervous system disorders include impaired vision, speech,  
14        hearing, and coordination.

15        (c) Mercury is especially hazardous to pregnant women and  
16        children, causing such problems as birth defects and learning  
17        disabilities. Other adverse health effects include permanent brain  
18        damage, blood pressure alterations, abnormal heart function,  
19        immune system changes, and infertility.

20        (d) There is no dispute within the scientific community  
21        concerning the serious ecological and health effects related to  
22        mercury. Mercury is an element that does not break down.

23        (e) Under conditions that are present in waste treatment  
24        plants and natural water systems, elemental mercury, can  
25        transform into the most toxic form of mercury, methyl mercury,  
26        which bioaccumulates. In California, there is a special concern  
27        regarding the bioaccumulation of methyl mercury in the  
28        environment, in the food chain, and in the human body. The most  
29        common way for humans to be exposed to methyl mercury is by  
30        eating fish that have lived in waters contaminated by mercury.

31        (f) Wastewater treatment plants typically discharge their  
32        treated wastewater into natural water systems, including lakes,  
33        rivers, bays, and the ocean. In California, biosolids collected  
34        before release of wastewater are typically spread on or  
35        incorporated into the landscape, disposed of in landfills, or  
36        burned.

37        (g) In 2001, the Association of Metropolitan Sewer Agencies  
38        evaluated seven major municipal wastewater treatment plants to  
39        determine and quantify sources of mercury coming into these  
40        facilities. At all plants, dental uses of mercury were identified as

1 *the greatest contributors to the mercury-load, accounting, on*  
2 *average, for 40 percent of the load. Dental amalgam was more*  
3 *than three times greater than the next largest source of mercury*  
4 *in wastewater.*

5 *(h) Dental mercury amalgam, which is used to fill cavities,*  
6 *typically contains about 50 percent mercury, 33 percent silver,*  
7 *and the balance consisting of a mix of other metals.*

8 *(i) According to an article published in the July 2004 issue of*  
9 *the Journal of the California Dental Association, approximately*  
10 *1,900 pounds, or nearly one ton, of mercury in the form of*  
11 *amalgam was discharged from dental facilities to publicly owned*  
12 *treatment works as a result of amalgam placements and*  
13 *removals. Assuming that 90 percent of the dental mercury is*  
14 *captured by the publicly owned treatment works, nearly 200*  
15 *pounds of mercury from dental facilities are released directly*  
16 *into the environment.*

17 *(j) Cities and counties, including San Francisco and Palo*  
18 *Alto, and other states, including Maine and Connecticut, have*  
19 *required dental offices to install amalgam separators, which are*  
20 *relatively inexpensive and require only a modest shift in dental*  
21 *practices to operate and maintain.*

22 *25251.1. As used in this article, the following terms have the*  
23 *following meanings:*

24 *(a) "Amalgam" means a substance consisting of elemental*  
25 *mercury as its principal element that is mixed with silver and*  
26 *other heavy metals and is used in the restoration of a dental*  
27 *cavity or a broken tooth.*

28 *(b) "Amalgam capsule" means a container device in which*  
29 *silver alloy is intended to be mixed with mercury to form the*  
30 *amalgam.*

31 *(c) "Amalgam waste" means any of the following:*

32 *(1) Noncontact or scrap amalgam.*

33 *(2) Contact amalgam, including, but not limited to, extracted*  
34 *teeth containing amalgam.*

35 *(3) Amalgam or amalgam sludge captured by chairside traps,*  
36 *vacuum pump filters, screens, and other devices.*

37 *(4) Used amalgam capsule.*

38 *(5) Leaking or unusable amalgam capsule.*

39 *(d) "Approved amalgam separator" means an amalgam*  
40 *separator that has been demonstrated to remove 99 percent or*

1 *more of the amalgam in wastewater when tested in accordance*  
2 *with ISO-11143 by a laboratory certified by the International*  
3 *Organization for Standardization.*

4 *(e) "Best management practices" include all of the following:*

5 *(1) Eliminating the use of bulk elemental mercury, and*  
6 *recycling or disposing of, as hazardous waste, any bulk*  
7 *elemental mercury.*

8 *(2) Limiting the amount of amalgam used to the smallest*  
9 *appropriate size for a restoration and maintaining a variety of*  
10 *sizes of amalgam capsules on hand to more closely match the*  
11 *amount triturated to the amount needed in the restoration of a*  
12 *tooth.*

13 *(3) Installing and frequently changing plastic disposable*  
14 *chairside amalgam traps in both the vacuum system and cuspidor*  
15 *of each operatory where restoration work is done.*

16 *(4) Preventing the rinsing of the disposable chairside*  
17 *amalgam traps in a sink.*

18 *(5) Prohibiting the use of sodium hypochlorite to disinfect*  
19 *vacuum lines.*

20 *(6) Changing vacuum pump filters and screens once per*  
21 *month or as directed by the manufacturer.*

22 *(7) Storing discarded vacuum screens, including any water*  
23 *that may be present, in a sealed plastic airtight container with*  
24 *other amalgam waste.*

25 *(8) Servicing, at least once every six months, more frequently*  
26 *if necessary to maintain suction, or if directed by the vacuum*  
27 *system manufacturer of the dry turbine vacuum unit, by a*  
28 *licensed amalgam recycler or hazardous waste disposal service,*  
29 *to pump out and clean the air-water separator tank.*

30 *(9) Using a licensed recycling contractor to recycle amalgam*  
31 *waste or a licensed hazardous waste hauler to remove amalgam*  
32 *waste.*

33 *(10) Maintaining for at least three years a written or*  
34 *computerized log of amalgam waste generated and amalgam*  
35 *waste removed from a vacuum system or plumbing.*

36 *(11) Obtaining and maintaining, for at least three years,*  
37 *records of receipts or other certified documents from the recycler*  
38 *or hazardous waste hauler of amalgam waste recycling and*  
39 *disposal shipments made.*

40 *(12) Storing amalgam waste in an airtight container.*

1     (13) Following the instructions, if any, from the licensed  
2     recycler or hazardous waste hauler for the disinfection of waste  
3     and separation of contact and noncontact amalgam.

4     (14) Preventing the use of disinfectant solution with oxidizers,  
5     including, but not limited to, bleach.

6     (15) Preventing the addition of water and waste fixer to any  
7     container storing amalgam waste.

8     (16) Using a licensed hazardous waste hauler for offsite  
9     recycling of spent fixer solution or the management of that spent  
10    fixer solution as a hazardous waste.

11    (17) Maintaining a staff training log on the proper handling,  
12    management, and disposal of mercury-containing material and  
13    fixer-containing solution.

14    (f) "Enforcement agency" means the local or regional agency  
15    with regulatory authority over wastewater discharges into the  
16    sanitary or combined sewer system of a jurisdiction.

17    (g) "Existing dental practice" means a dental practice that is  
18    established on or before June 30, 2006.

19    (h) "New dental practice" means a dental practice that is  
20    established on or after July 1, 2006.

21    (i) "Responsible person" means an individual designated by a  
22    dental practice to be responsible for maintaining an approved  
23    amalgam separator.

24    25251.2. On and after July 1, 2006, an owner or operator of  
25    a dental practice shall implement the best management practices  
26    to reduce the amount of mercury in the wastewater. The owner or  
27    operator shall maintain, onsite, records showing the  
28    implementation of the best management practices. The records  
29    shall be made available for inspection upon the request of the  
30    enforcement agency.

31    25251.3. (a) On or before January 1, 2007, an owner or  
32    operator of an existing dental practice shall install an approved  
33    amalgam separator to remove mercury from the wastewater.

34    (b) On or before January 1, 2007, an owner or operator of an  
35    existing dental practice shall submit to the enforcement agency  
36    documents showing the purchase and installation of an approved  
37    amalgam separator.

38    (c) An existing dental office may apply, in writing, to the  
39    enforcement agency for an one-time extension of up to six months  
40    to install an approved amalgam separator. The enforcement

1 *agency shall grant the extension upon a showing of good cause*  
2 *justifying the requested extension.*

3 *25251.4. An owner or operator of a new dental practice shall*  
4 *install an approved amalgam separator and shall submit to the*  
5 *enforcement agency documents showing the purchase and*  
6 *installation of an approved amalgam separator before opening*  
7 *for business.*

8 *25251.5. (a) The approved amalgam separator shall be*  
9 *installed at either of the following locations:*

10 *(1) Each vacuum line that serves a dental chair.*

11 *(2) A central location that receives vacuum line wastewater*  
12 *from all dental chairs in the dental practice.*

13 *(b) An owner or operator of a facility with multiple dental*  
14 *practices that share a common vacuum system may install one*  
15 *approved amalgam separator at a location that would treat the*  
16 *wastewater discharged from all of the dental practices. Each*  
17 *dental practice in a facility described in this subdivision is*  
18 *deemed to be in compliance with subdivision (a).*

19 *(c) The responsible person shall maintain the amalgam*  
20 *separator in accordance with the manufacturer's*  
21 *recommendation and shall handle the recovered amalgam waste*  
22 *in accordance with the best management practice.*

23 *(d) The responsible person shall maintain, onsite, the*  
24 *installation and maintenance records of the installed amalgam*  
25 *separator and the amalgam waste disposal records for a*  
26 *minimum of three years. The records shall be made available for*  
27 *inspection upon request by the enforcement agency.*

28 *25251.6. The department shall establish, maintain, and*  
29 *publish, on its Internet Web site, a list of approved amalgam*  
30 *separators. The department shall update the list annually.*

31 *25251.7. An owner or operator of a dental practice shall*  
32 *submit to the enforcement agency a processing fee of \_\_\_\_\_*  
33 *dollars (\$\_\_\_) along with the submission of the documentation*  
34 *required by subdivision (b) of Section 25251.3 or Section*  
35 *25251.4.*

36 *25251.8. The enforcement agency shall perform an inspection*  
37 *of at least 10 percent of the dental practices within its*  
38 *jurisdiction each year to ensure compliance with this article.*

39 *25251.9. This article shall not be construed to prohibit a*  
40 *local jurisdiction from enacting and enforcing more stringent*

1 *ordinances or regulations regulating mercury discharge from*  
2 *dental practices.*

3 *SEC. 2 No reimbursement is required by this act pursuant to*  
4 *Section 6 of Article XIII B of the California Constitution because*  
5 *the only costs that may be incurred by a local agency or school*  
6 *district will be incurred because this act creates a new crime or*  
7 *infraction, eliminates a crime or infraction, or changes the*  
8 *penalty for a crime or infraction, within the meaning of Section*  
9 *17556 of the Government Code, or changes the definition of a*  
10 *crime within the meaning of Section 6 of Article XIII B of the*  
11 *California Constitution.*

12 **Article 1. Bloodborne Disease Exposure Prevention**

13  
14 ~~SEC. 2. Article 2 (commencing with Section 105336) is~~  
15 ~~added to Chapter 6 of Part 5 of Division 103 of the Health and~~  
16 ~~Safety Code, to read:~~

17  
18 **Article 2. Dental Amalgam**

19  
20 ~~105336. (a) The Legislature finds and declares that amalgam~~  
21 ~~waste released into the environment is harmful to the~~  
22 ~~environment and presents a danger to the public health.~~

23 ~~(b) The department shall adopt regulations establishing~~  
24 ~~standards regulating the discharge of mercury and other~~  
25 ~~byproducts related to the use of amalgam in the process of~~  
26 ~~providing dental and related services, and related to supplying~~  
27 ~~those who provide the services.~~

28 ~~(c) The regulations shall require that a person supplying or~~  
29 ~~using mercury in the process of providing dental and related~~  
30 ~~services use the best available technology to ensure that the~~  
31 ~~highest possible percentage of mercury is removed from any~~  
32 ~~wastewater prior to discharge from his or her facility.~~

33 ~~105337. An insurance contract for health care coverage, a~~  
34 ~~health care service plan, or a specialized health care service plan~~  
35 ~~contract entered into, amended, or renewed, on or after January~~  
36 ~~1, 2006, shall not deny coverage or reimbursement for the use of~~  
37 ~~alternatives to amalgam based upon the cosmetic aspects of the~~  
38 ~~alternative.~~